

**Board of Forestry and Fire Protection
Title 14 of the California Code of Regulations**

[Notice Published April 19, 2006]

45 - Day Notice of Public Hearing for Modifications to Proposed Regulation

Amador Plan, 2006

PUBLIC HEARING DATE

Pursuant to the requirements of Government Code § 11346.8(c), and Title 1 of the California Code of Regulations § 44, the California State Board of Forestry and Fire Protection (Board) is providing notice of changes made to proposed regulations listed below which were the subject of a regulatory hearings on January 5, 2006. These changes are being proposed in response to comments received on adoption of Title 14 of the California Code of Regulations, Chapter 7. Fire Protection, Article 5. Standards for Cooperative Fire Protection Contracts During the Non-fire Season.

The Board will hold a public hearing to adopt final rule language. The public hearing is to be held at 9:00 a.m. on Thursday, June 8, 2006, in Los Angeles County, California, at a location to be posted on the Board's web site:

http://www.bof.fire.ca.gov/board/board_proposed_rule_packages.aspx

PUBLIC COMMENTS

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the 45-Day Notice. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, June 5, 2006. The Board will consider only written comments received at the Board office by that time (in addition to those comments received at the public hearing). The Board requests, but does not

require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board of Forestry and Fire Protection (Board) held a public hearing on December January 5, 2006, on the amendments to Title 14 of the California Code of Regulations, Chapter 7. Fire Protection, Article 5. Standards for Cooperative Fire Protection Contracts During the Non-fire Season. The proposed regulation implements a legislative amendment to Public Resource Code (PRC) 4143 and 4144 authorized under Senate Bill (SB) 1356 of 2004, and to update the regulation based on Board and California Department of Forestry and Fire Protection (CDF) policy changes.

The legislation and policy changes, among other things, revise the terms and conditions under which the California Department of Forestry and Fire Protection (CDF) can enter into cooperative fire protection agreements with local jurisdictional entities throughout California, expands the types of entities the Department may contract with, eliminates set financial payment limitations that may be reimbursed to CDF for non-fire season services provided, and sets staffing and cost recovery formulas for CDF services provided to contracting entities.

During this hearing the Board received comments from the public both in writing and in testimony. The Board considered all written and oral comments before them at the hearing. The Board directed staff during the January 5, 2006, to obtain additional information from the public and provide potential changes to final regulatory language. After consulting with the public, staff presented changes to Board on April 6, 2006. The Board directed staff to issue a 45-day notice of rulemaking public hearing (GC § 11346.8(c)) with changes presented on April 6, 2006. The Board may adopt any individual proposed change, a selected group of the proposed changes, or all of the proposed changes. The means of identifying the proposed changes is stated later in this notice.

The revisions made to the originally proposed rules included in this notice are all sufficiently related to the original rule proposal. The changes being noticed generally make more specific the original rule proposal language for determining staffing levels and cost recovery formulas for services provided by CDF to local contracting entities.

These revisions are expected to improve implementation and interpretation of the rule, reduce confusion, and result in equitable cost apportionment for service provided by CDF to contacting entities. No environmental impacts to the regulated community or agencies involved result due to revisions.

PURPOSE AND NECESSITY OF MODIFICATIONS TO TEXT OF PROPOSED REGULATION

The following are specific changes made to the proposed regulation:

14 CCR § 1261 (a)(page 1 line 23-page 2 line 1): Language was add to make more specific the type of assessment the Director will use to determine if resources should be allocated to a contacting entity for non-fire season services. This change is necessary to ensure that consistent information is provided to the Director as part the decision-making process.

14 CCR § 1261 (b): Language was added providing more detailed instruction for the minimum staffing levels for engines assigned to the contracting entity. Language was also added to clarify that staffing levels for Amador Plan engines will be at levels that are mutually agreeable to all parties. These instructions were necessary to ensure that minimum fire firefighter safety standards are maintained on engines consistent with CDF staffing policies. Also, the term for “mutually agreeable” was added to ensure consistency with statutory direction and provide flexibility for staffing levels.

14 CCR § 1261 (c): More specific Language was added to state that costs for services provided by CDF for contracting entities will be apportioned based on the actual additional costs for assigned services. The calculation of these costs

will be determined by the Director by April 15th of each year. This language was necessary to ensure Statewide consistency for facilitating annual local contracting entity budgeting. Also, a definition for the “Amador Period” was provided to establish a limit on the period of time when contacting entities will be responsible for payment for non fire season services. This definition ensures consistent statewide application of the period when contracting entities will be charged for services.

14 CCR § 1261 (d): Language was added to provide more details on the formulas to be used to apportion costs to the contracting entity for non-fire season services provided by CDF.

Section (1) details the formula for cost calculation for engine staffing.

Section (2) establishes the cost apportionment formula when the contacting entity requests additional engine staffing beyond the minimum staffing required for the program.

Section (3) establishes the formula for apportioning “Additional Operational Support” costs to the contacting entity. These costs are the overhead costs typically associated with for non-engine support staff. The formulas use computer aided dispatch information, from a specific period of time, to apportion commensurate overhead costs. This section also establishes a minimum “significant commitment” baseline to trigger apportionment of overhead service to the contracting entity (if the contacting entity uses the contracted engine for greater than 8 hours per week, than overhead support services will be apportioned).

Section (4) provides detail on the formula for apportioned engine rental costs. These changes are necessary to ensure statewide consistency and transparency in apportioning cost to the contracting entity.

AMENDMENTS TO INITIAL STATEMENT OF REASONS (ISOR)

The ISOR published on November 18, 2005, is amended as shown below to 1) add information on cost impacts and fiscal effects of the modified regulation text; and 2) incorporate technical documents relied upon that were brought forward to the Board during public hearings and considered by the Board as part of the regulation adoption process.

1) EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The amendments to the proposed regulation are not anticipated to result in any significant adverse economic effects to the regulated public (local contracting

entities). Technical documents generated by CDF suggest (given the Collective Bargaining MOU in place as of June 30, 2006) that Amador plan contacts under the proposed formulas in this notice will result in decreased costs to contracting entities compared to the same contract staffing levels in Fiscal Year 05/06. Technical documents indicate that the majority of the decrease in cost to contracting entities from the proposed formulas result from the elimination of Planned Overtime charges previously apportioned to the contracting entities. The changes to the Collective Bargaining MOU for Bargaining Unit 8 results in a Constant Rate of Pay for staffing and elimination of planned overtime charges. The State will receive General Fund allocations for the Constant Rate of pay and according such Pay will not be apportioned to the contracting entity.

2) TECHNICAL DOCUMENTS

1. CDF Cost Apportionment Methodology. March 6, 2006
2. Example Anticipated Cost Effects to Contracting Entities. March 6, 2006.
3. CDF FY/06/07 Amador Policy. March 23, 2006.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone number (916) 653-5602.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

A copy of the express terms of the proposed regulation is available on request.

A copy of the express terms of the proposed regulation is also available on the Board of Forestry and Fire Protection web page:

http://www.fire.ca.gov/bof/board/board_proposed_rule_packages.html.

Additionally, all the information considered as the basis for this proposed regulation (i.e., rulemaking file) is available to the public at the Board's office listed above.

TEXT OF MODIFIED REGULATIONS

In order to clearly indicate those sections proposed for change in this notice, the text is presented in the following format:

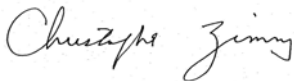
The Board has illustrated changes to the original text in the following manner:

- additions originally proposed on November 18, 2005, is UNDERLINED
- deletions originally proposed on November 18, 2005, is ~~SINGLE STRIKEOUT~~
- additions to the previously noticed language is DOUBLE-UNDERLINED
- deletions to the previously noticed language is ~~DOUBLE STRIKEOUT~~

Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 45 days after the date on which they are made available.



Christopher Zimny
Regulations Coordinator
Board of Forestry and Fire Protection

Version 4_19_06